

Facts of the Case:
On the Unconstitutionality of the actions of Carolyn Harris and Student
Body President Jean Tabares regarding the April 2015 Center for
Participant Education Election

At 7 pm, April 27 2015, the Center for Participant Education (CPE) at Florida State University held a scheduled election for Director and Assistant Director. CPE's [constitution](#) describes it as "a forum for progressive and alternative ideas on education, politics and the arts". The first two guiding principles are "[w]e make our decisions by consensus" and "[w]e fight against the subjugation of the oppressed." [Article II].

Along with the dozen or so active CPE members attended the election, approximately 20-30 other students showed up who (with the exception of two) admitted to having never attended a single CPE meeting before this election. Over the course of nearly five hours, the Student Government advisor to CPE [name] attempted to hold an election through a process that violated the organization's constitution in several places. With the help of the Student Body President and the 20-30 first time attendees, Carolyn Harris conducted and counted an unconstitutional simple majority vote, the results of which are now being reported to the university as the official results. This took place despite constant and unanimous dissent from every active CPE member present at the election.

In total, the Advisor to CPE and Student Body President violated the CPE's constitutional election process V.3 on two counts. First, they bypassed the election process which is to be carried out by Formal Consensus. Second, they coordinated an unconstitutional vote, insisting that ineligible voters (who constituted a supermajority of people in the room) cast a vote. Audio recording of the last 30 minutes of the meeting may be found [here](#).

1st Violation: Article V, Section 3

The election on April 26 began constitutionally, as described in Article V:

Article V—Selection of Officers

Section 3: Election Process

The nominated candidates will be given a chance to address the organization to discuss [their] qualifications and reasons why they should be selected. ...

Four candidates were nominated, two for each position. After the candidates addressed the room, they answered questions regarding their qualifications. During this time, it was revealed that one candidate for director and one for assistant director had never been to a CPE meeting. It was at this point that Carolyn Harris first forced the meeting to violate CPE's constitution. Article V.3 goes on to stipulate what was supposed to happen next:

... Once each candidate has had the opportunity to speak, **all eligible members (as defined in Article III Section 1) present excluding members running for office will come to a decision by consensus.** ...

Instead of allowing the meeting to move into the consensus process, Carolyn Harris began distributing vote ballots to everyone in the room, including the many additional people who came in over the course of the very long meeting. Formal Consensus Process used by CPE is not a ballot voting process. No "vote" takes place during a consensus process. It is a system of hand-signal facilitated dialogue used to guide a group to a full consensus. Consensus is sought first, and if for some reason full consensus is not reached, the group decides on a remedy, often tabling an issue before resorting to a simple majority vote. The rest of Article V.3 describes this in the context of the election process:

[...] **If consensus is not met, there will be a vote by simple majority** through either a show of hands or secret ballot as decided by consensus.

If consensus (of "eligible members") is not met, there is to be a "vote". In a direct violation of V.3, Carolyn Harris bypassed the consensus process and pushed directly for a majority ballot vote.

2nd Violation: V.1.1. Eligibility to vote

After Carolyn distributed ballots and began instructing everyone to vote, a *point of process*¹ was raised, pausing the consensus process to address a procedural question; *are the 20-30 first-time attendees were eligible to vote in the selection of CPE officers?* The definition of “eligible member” in III.1 reads clearly:

Article III—Membership

Section 1: Membership Statement

1. Membership is open to all students, professors, and members of the Tallahassee community

As quoted above, V.3 specifically allows “eligible members” to participate in an election through the open consensus process, “all eligible members (as defined in Article III Section 1) [...] will come to a decision by consensus”. In the event that a consensus is not reached, V.3 stipulates that the consensus process is abandoned for “a vote by simple majority”.

This is the only time the word “vote” is used in all of Section V, aside from in the very beginning of V.1, which outlines specifically the “eligibility to vote”. Eligible voters are described:

Article V—Selection of Officers

Section 1: **Eligibility to Vote** and Hold Office

Active voting membership will be limited to all active members in good standing. ...

As opposed to the full inclusiveness of the III.1 definition of “eligible member”, the language of V.1 literally uses the word “limited” to unambiguously describe a smaller subset of membership that are eligible “to vote”, namely those members who are “active”. Article V distinguishes those who may participate in the consensus process (“eligible members”) from those who may “vote” in the simple majority vote (“active members”). These two types of members are indeed distinct, and their difference is one that is recognized in several places throughout the document.

Before demonstrating how clear these distinctions are, it should be noted that requiring CPE to defend this language is absurd for one primary reason; the language in

¹ Point of Process: In Consensus Process, a point of process suspends the meeting until it can be determined whether procedure is being broken. It is analogous to a Point of Order in Robert’s Rules.

question (in V.1) is taken almost verbatim from the Sample Constitution found in the RSO [handbook](#):

Article V—Selection of Officers

Section 1: Eligibility to Vote and Hold Office

Ability to vote **will be limited to** all students who are **active members in good standing**. ... (pg 11)

This further clarifies the point that CPE's constitutional language is not exceptional or ambiguous. In the case that one still wishes to challenge the clarity of this language, the following provides further clarity, *noscitur a sociis*.

Active ≠ Eligible

Several parts of the remaining document cite III.1 unambiguously as conditions for *eligibility* of membership. In V.2, we find “Any eligible member (as defined in Article III Section 1)”, and then again V.2 mentions “an eligible member (as defined in Article III Section 1).” In V.3, mention is made of “eligible members (as defined in Article III Section 1)”. Thus, III.1 is unambiguously taken as a definition for “eligible membership”.

To the fact that “eligible membership” and “active membership” are distinctly defined and with different privileges, we find that the constitution makes further unambiguous differentiation between them. We find in Article VIII that the decision to remove the CPE adviser is left to a “consensus decision of *eligible members*”, while immediately following in Article IX, the decision to charge membership dues is left to a “consensus decision of the *active membership*”.

If Carolyn Harris and Jean Tabares are correct in asserting that eligible members (as defined in III.1) can vote, then there would be absolutely no reason for Section V to define eligibility to vote at all. Again, Section V in CPE's constitution is nearly identical to the constitution used as a model for all student groups.

The Meaning of “Active”

Although “active” membership is not explicitly defined in CPE's constitution (or the model constitution it is taken from), it is clear for two reasons that the group of 20-30 first-time attendees do not qualify as “active” members, as there is no sense in which the word “active” may refer to a member who has never attended a single meeting or worked with the organization. As a result, the burden to disambiguate “active” is unnecessary. The Plain Meaning Rule, as discussed in *Caminetti v. United States*, 242

U.S. 470 (1917), describes that when statutory language is plain "the duty of interpretation does not arise, and the rules which are to aid doubtful meanings need no discussion."

For the sake of rigor, let us further show the point by providing the first three definitions produced in a web search for the word "active" (in the organizational context);

1. ["doing things for an organization, cause, or campaign, rather than simply giving it one's support."](#)
2. ["involved in the activities of a group or organization : participating in an action or activity"](#)
3. ["a member of an organization who participates in its activities"](#)

Carolyn Harris and Jean Tabares violated CPE's constitution a second time by insisting that everyone in the room was eligible to vote solely by virtue of meeting the criteria of III.1 (that of "eligible membership"). This is demonstrably false, and though every active member of CPE who was in attendance objected, she instructed everyone in the room to cast a ballot. She then reported that vote as the official result. Student Body President Jean Tabares then decreed his approval of the unconstitutional ballot vote.

The Conclusion of the election

Instead of waiting to settle the question raised about the eligibility of everyone in the room to vote, Carolyn Harris proceeded to pass out ballots and ask people to vote. At this point, the electoral consensus meeting was on hold until the eligibility question was settled. As per consensus, this discussion was open, and lasted roughly three hours. During this time, active members proposed coming to a consensus on a more specific definition of active member that all parties could decide on, providing. The 20-30 first-timers, lead by Carolyn Harris and Jean Tabares, resisted any outcome other than all of their ineligible votes being counted. They simply repeated the claim that all members defined in III.1 were eligible to vote. When we pointed out the restriction to "active" members in V.1, they claimed it to be ill-defined. When we pointed out how it was plain language, and unambiguous, they claimed that it was not in statutes, and the decision should be made only according to statutes, and that statutes "trump" the constitution.

At 11:20 pm, Carolyn Harris informed the room that she would unilaterally decide the question by certifying the ballot vote if no decision was reached by 11:30. By 11:30, no consensus was reached, and active CPE members had no choice but to follow their

own constitution and hold a simple majority vote among eligible voters. People who considered themselves to be active members of CPE were asked to go to one side of the room and vote, an example given to determine that was whether a person had been to a single CPE meeting ever. Incidentally, only the active membership who were in attendance identified themselves as active members at this point of the evening and moved to the specified side of the room. A hand vote was held, much to the dismay of the 20-30 others in the room, including Carolyn Harris and Jean Tabares, who both tried to interrupt the vote.

The vote of the active membership was unanimous in support of Shivaani Ehsaan (Avanash Ramanathan) as Director and Kathrine Draken (Mark Niekus) as Assistant Director. These are the constitutional results of CPE's election. The results being reported by Carolyn Harris and Jean Tabares are unconstitutional and illegitimate.

The Claim that SGA Statutes “trump” CPE’s Constitution

The [SGA statutes](#) which describe CPE do not contain any language detailing voting eligibility. In fact, they mention nothing at all about CPE's election process. These details are (necessarily then) left to CPE's constitution. Ironically, although Carolyn Harris and Jean Tabares repeatedly claimed that SGA statutes are the “only document” CPE is allowed to operate by, CPE's constitution is explicitly mentioned in those very statutes. In 906.3 of SGA Statutes, the CPE Board of Directors is introduced, and among the Powers and Duties in 906.3.B.2, the Board is directed to “[a]ssist the director in planning and maintaining procedural bylaws operations”. It is for these purposes that the FSU The definition of “Membership” appears in 906.2 almost identically as in the constitution, “Participation is open to students, faculty and staff of the Florida State University and the Tallahassee community”.

Student organizations are granted “the discretion to determine their own rules and procedures”, on pg. 9 of the FSU Registered Student Organization (RSO) [handbook](#):

RSOs are afforded privileges and resources at FSU and, in exchange, are required to adhere to and fulfill the following expectations as conditions of recognition:

...

Adhere to the rules and procedures set forth in the organization's constitution, including the nondiscrimination and non-hazing requirements for membership. (pg. 6)

...

All organizations must draft and submit a current local constitution and submit it with annual recognition application. [...] SGA Affiliates may submit a bylaws/statutes in place of a local constitution. (pg. 7)

These documents are not only required of organizations, but they are approved by the university annually, even for SGA affiliates like CPE. Again, the language in question (V.1) is taken nearly verbatim from the Sample Constitution found in the RSO Handbook.

All of the aforementioned makes clear that the CPE constitution is a valid governing document, recognized by statutes, and mandated/approved by the university. The CPE Adviser and Student Body President refused to accept this as fact, and instead carried out a non-consensus election process that was a gross violation of the spirit and letter of CPE's constitution.